

Administration

Gifts and Donations

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SUMMARY of CHANGE

AR 1-100
Gifts and Donations

This is a transitional reprint of this publication which places it in the new UPDATE format. Any previously published permanent numbered changes have been incorporated into the text.

Administration

Gifts and Donations

By Order of the Secretary of the Army:

JOHN A. WICKHAM, JR.
General, United States Army
Chief of Staff

Official:

ROBERT M. JOYCE
Major General, United States Army
The Adjutant General

History. This UPDATE issue is a reprint of the original form of this regulation that was published on 15 November 1983. Since that time, no changes have been issued to amend the original. This publication has been reorganized to make it compatible with the

Army electronic publishing database. No content has been changed.

Summary. This regulation has been revised to issue administrative policies that implement a new law concerning gifts given to the United States Military Academy, and to change the dollar amount in the determination of gift categories.

Applicability. This regulation applies to the Active Army, the Army National Guard (ARNG), and the US Army Reserve (USAR).

Proponent and exception authority.
Not applicable

Army management control process.

Supplementation. Supplementation of this regulation is prohibited without prior approval from HQDA (DAAG-PSI), ALEX VA 22331.

Interim changes. Interim changes to this

regulation are not official unless they are authenticated by The Adjutant General. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

Suggested Improvements. The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to HQDA (DAAG-PSI), ALEX VA 22331.

Distribution. To be distributed in accordance with DA Form 12-9A requirements for AR, Administration, Active Army, D and C; ARNG, D; USAR, D.

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* This regulation supersedes AR 1-100, 1 March 1979.

RESERVED

1. Purpose

This regulation sets policies and procedures for accepting and administering gifts to the Army that are subject to section 2601 of title 10, United States Code (10 USC 2601). It also gives authorization, direction, and information on accepting certain gifts not covered by that statute, but covered by other authorities (paras 6b through 7).

2. References

Required publications are listed below.

- a. AR 1-101 (Gifts for Distribution to Individuals). Cited in paragraph 6.
- b. AR 210-3 (Nonstandard Activities of the United States Military Academy and West Point Military Reservation). Cited in paragraph 6.
- c. AR 230-1 (The Nonappropriated Fund System). Cited in paragraph 6.
- d. AR 600-50 (Standards of Conduct for Department of the Army Personnel). Cited in paragraph 6.
- e. AR 735-5 (Property Accountability: General Principles, Policies, and Basic Procedures). Cited in paragraph 5.
- f. AR 870-20 (Historical Properties and Museums). Cited in paragraph 6.

3. Explanation of abbreviations and terms

a. Abbreviations.

- (1) AFIP—Armed Forces Institute of Pathology
- (2) MSP—Morale Support Program
- (3) NAF—nonappropriated funds
- (4) NAFI—nonappropriated fund instrumentalities

b. Terms.

(1) *Gift.* A contribution, donation, devise, or bequest of real or personal property. The two classes of gifts are shown below.

(a) *Conditional gift.* Money or other intangible personal property (stocks and bonds) offered with specified limitations on its ownership and use; or real property or tangible personal property offered on condition that it would be used in a manner, or for a purpose, or in a place that is not considered normal use or placement; or real property or tangible personal property offered on condition that it would be used by specific organizations other than those that normally use such property.

(b) *Unconditional gift.* Money or real or personal property offered with no limitation on its ownership or use. If a donor does specify that a gift (real or personal property) be used in a certain place, manner, or for a certain purpose, but the condition is for normal use, the gift is to be considered unconditional.

(2) *Other similar institution or organization.* As used in 10 USC 2601, any institution or organization similar to a school, hospital, library, museum, or cemetery.

(3) *Recipient of an offer.* The commander, or his or her designated representative, of an organization chosen to receive a gift.

(4) *Negligible cost.* Cost that the commander considers inconsequential and can be disregarded because it is small or unimportant and will not have an impact on the commander's operating budget.

(5) *Nonappropriated fund instrumentality (NAFI).* An integral DOD organization that—

(a) Assists other DA organizations in providing Morale Support Programs (MSP) for military and civilian personnel.

(b) Is established and maintained individually or jointly by the heads of the DOD components.

(c) Has custody and control over its nonappropriated funds (NAFs).

(d) Supplements the MSP of other authorized organizational entities with its own NAFs when authorized. It is not incorporated under the laws of any State or the District of Columbia and it enjoys the legal status of an instrumentality of the United States.

4. Responsibilities

a. The Secretary of the Army. The Secretary of the Army will—

- (1) Accept and manage certain conditional gifts. These gifts are

to be used for the benefit of, or in connection with, the establishment, operation, maintenance, or administration of any *school, hospital, library, museum, cemetery,* or other similar institution or organization under the jurisdiction of the Department of the Army.

(2) Pay all necessary expenses involved in the transfer of conditional gifts. Any gift accepted by the Secretary of the Army under authority of 10 USC 2601 or the statutory provisions of Public Law (PL) 97-252 will be deemed a gift to or for the use of the United States.

(3) Have the Secretary of the Treasury establish a special deposit account, entitled "US Department of the Army General Gift Fund," on the books of the Treasury. All funds received as conditional gifts under the provisions of 10 USC 2601 will be initially deposited in the account.

(4) Disburse the Gift Fund to the chosen organization. The disbursements are subject to the terms and conditions of the particular gifts.

(5) Request the Secretary of the Treasury to invest or retain investments of all or any part of the Department of the Army General Gift Fund. Investments of these funds will be made only in securities of the United States or in securities guaranteed as to principal and interest by the United States. The interest and profits will be deposited and disbursed in the same manner as the funds in (3) and (4) above.

b. *The Adjutant General.* The Adjutant General will administer the Army Gift Program and will monitor all information and correspondence pertaining to conditional gifts designated for approval by the Secretary of the Army. The Soldiers/Family Assistance Directorate, The Adjutant General's Office (DAAG-PSI), will coordinate with all appropriate agencies on such gifts.

c. *Commanding General, US Army Finance and Accounting Center.* The Commanding General, US Army Finance and Accounting Center (USAFAAC) will—

(1) Receive and account for all funds for accepted gifts. All transactions will comply with the requirements of the applicable Army regulations in the AR 37-series. Correspondence about such funds will be sent to Cdr, US Army Finance and Accounting Center, ATTN: FINCO-BD, Indianapolis, IN 46249. Gifts to the US Military Academy that are under the statutory provisions of appendix A are exceptions.

(2) Through the Field Services Division (DO 5557), process necessary collections and disbursements relative to accepted gifts based upon documentation received from the Director of DA Financial Operations. All gifts of money will be held in the applicable suspense account pending acceptance by the Secretary of the Army.

(3) Through the Director of DA Financial Operations on notification of acceptance of a gift, allocate funds to the major command or operating agency responsible for the organization chosen to receive the gift. No expenditure will be made until DA Form 1323 (Funding Authorization Document) is received. A copy of each DA Form 1323 will be sent to HQDA (DAAG-PSI), ALEX VA 22331.

5. Gift categories and acceptance

a. *Determination of gift categories.* In deciding to receive a gift, the recipient of an offer must consider the propriety of the gift, as well as the relationship between the intrinsic value of the gift to the Army and the cost of acceptance and maintenance.

(1) Normally, gifts with a value of more than \$1,000 will be treated as conditional gifts and processed as discussed in paragraph 7a. Exceptions are those gifts—

- (a) To museums and historical collections.
- (b) To NAFIs.

(c) Whose acceptance and maintenance entail more than negligible cost.

(2) Normally, a gift with a value of \$1,000 or less and whose acceptance and maintenance entail negligible costs will be treated as unconditional and processed as discussed in paragraph 6b. Therefore, when this type of gift is offered, the recipient should recommend that the donor make it unconditional.

- (3) If there is any doubt about the offer being conditional or

unconditional and if clarification cannot be obtained from the donor, it will be treated as a conditional gift.

b. Acceptance of gifts.

(1) If a gift is offered on condition that it be used as discussed in paragraph 4a, the Secretary of the Army must approve the offer before the gift can be accepted. All DA personnel may receive offers of such gifts and may send the offers to the commander of the installation chosen to receive the gift. However, the Secretary of the Army must accept or reject such gifts. Upon acceptance, The Adjutant General will issue instructions on its disposition.

(2) If a conditional gift is offered that is for a defense purpose but does not fall within the scope of 10 USC 2601 (school, hospital, library, museum, or cemetery), it may be considered for acceptance by—

- (a) The Secretary of the Treasury under 50 USC 1151.
- (b) The Administrator of the General Services Administration under 50 USC 1151.
- (c) The Secretary of the Army under 10 USC 2672 (land acquisition). Advice on such gifts may be sought from The Adjutant General (DAAG-PSI).

(3) Secretarial approval is not needed for unconditional gifts of value under \$1,000 when their acceptance will not burden appropriated funds or other funds involved.

(4) Under 10 USC 2601, the Secretary of the Army accepts all gifts of money offered on condition they be used for the operation of the American Registry of Pathology as a cooperative enterprise in medical research and education between the Armed Forces Institute of Pathology (AFIP) and the civilian medical profession. The Director, AFIP, will—

(a) Receive and process such gifts without reference to the Secretary of the Army.

(b) Send such gifts within 24 hours of receipt to the US Army Finance and Accounting Center (para 4c).

c. *Accountability.* Physical property acquired under the provisions of this regulation will be accounted for as prescribed in AR 735-5.

d. *Privileges and concessions to donor.* No arrangements will be made to grant special privileges or concessions to a donor.

e. *Solicitation of gifts.* DA personnel will not solicit gifts from potential donors. They may, however, in response to an appropriate inquiry, inform potential donors of needs of the service.

6. Processing gifts

a. Conditional gifts will be processed as follows:

(1) An installation commander receiving the offer of a conditional gift will advise the prospective donor that the Secretary of the Army or other appropriate authority (see para 5b(2) and d through f below) must formally approve acceptance of the gift. A written offer of the gift, signed by the donor, must be obtained. In the case of a devise or bequest, a copy of the will is required. The commander will then send the written offer, full details of the conditions upon which the offer is made (including the expense involved, if any), and his or her recommendation through the major Army commander for review and recommendation to HQDA (DAAG-PSI) ALEX VA 22331, where the offer will be processed for formal acceptance. The commander's recommendation will specifically include his or her opinion as to whether acceptance of the gift could be construed as an action to be avoided under the provisions of AR 600-50, paragraph 1-5e. With respect to formulating such opinion, the advice of the installation contracting officer and the legal advisor will be sought.

(2) Conditional gifts of negotiable instruments (checks, money orders, drafts, etc.) will be made payable to or indorsed to the Treasurer of the United States and will be furnished with the written offer.

(3) Conditional gifts of tangible property will remain in the possession of the donor. However, if circumstances warrant receipt of the gift, it will be properly protected pending acceptance or rejection.

(4) If the conditional gift offered is to construct a building or

other permanent structure (museum, library, etc.), the plans must be approved by the Army installation facilities engineer and sent to the MACOM engineer for review and recommendation to HQDA (DAAG-PSI). The MACOM commander's recommendation will include the construction plans, the written offer, and complete details (including cost of construction and location site). The Adjutant General will be responsible for DA Staff coordination prior to submission of the offer for appropriate approval.

b. Unconditional gifts should be processed as follows:

(1) When consistent with the intent of the donor, unconditional gifts of money or tangible personal property made directly to Army units will be treated as gifts to the unit welfare fund or other nonappropriated fund and not as gifts to the US Government.

(2) If unconditional gifts of money or other tangible personal property offered directly to Army units cannot be construed as gifts to the unit welfare fund or other NAF, they will be treated as—

(a) Unconditional gifts to the United States, which are discussed in (3) below.

(b) Conditional gifts to the United States for use by that unit and processed as specified in a above.

(3) Under the authority of 31 USC 484, unconditional gifts of money made to the US Government must be deposited in the US Treasury as miscellaneous receipts by the officer accepting the gift. This money may not be expended by the officer or retained by the unit.

(4) Gifts to NAF activities will be processed in accordance with AR 230-1, paragraph 1-20.

c. Gifts (conditional or unconditional) offered for distribution to individuals will be processed according to AR 1-101.

d. Gifts of historical items for museums or other historical collections are governed by AR 870-20.

e. Gifts of any interest in land or realty not within the scope of 10 USC 2601 may be considered for acceptance by the Secretary of the Army under 10 USC 2672 or the Administrator of the General Services Administration under 50 USC 1151.

f. According to PL 97-252, section 1133, and notwithstanding other terms of this regulation, the Secretary of the Army authorizes the Superintendent, US Military Academy (USMA) to accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property of a value of \$20,000 or less made to the United States on the condition that such gift, devise, or bequest be used for the benefit of the USMA or any part of it. Procedures for gifts administered under PL 97-252 are in AR 210-3, chapter 11.

g. Questions about offers of gifts that do not readily fit into the categories described should be referred to the local Staff Judge Advocate. Action that cannot be resolved within the command may be referred to HQDA (DAAG-PSI).

7. Residual gifts

When a conditional monetary gift that is maintained in the Army General Gift Fund is consumed to the point at which its value is less than \$100, it will revert to the Treasury as a miscellaneous receipt.

Appendix A
Statutory Provision for Certain Gifts to the United States Military Academy

PL 97-252, Section 1133, Use of Certain Gifts to the United States Military Academy.

“(a) Under regulations prescribed by the Secretary of the Army, the Superintendent of the United States Military Academy may (without regard to Section 2601 of Title 10, United States Code) accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property of a value of \$20,000 or less made to the United States on the condition that such gift, devise, or bequest be used for the benefit of the United States Military Academy or any entity thereof. The Secretary of the Army may pay or authorize the payment of all reasonable and necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest under this section.”

“(b) This section applies with respect to any gift, devise, or bequest made on or after the date of the enactment of this Act for the purpose described in subsection (g) and applies to any such gift, devise, or bequest, or devise made before the date of the enactment of this Act with respect to which the Secretary of the Army has approved application of this section rather than Section 2601 of Title 10, United States Code.”

Glossary

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